IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

W.P(C).No. 37832 of 2007(D)

PETITIONER:

R. NARAYANASWAMY & SON,
BPC DEALER, A.M.ROAD, PERUMBAVOOR,
ERNAKULAM DIST.
PIN-683542, REP. BY ITS MANAGER.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.T.S.SHYAM PRASANTH

RESPONDENTS:
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1. **THE ASSISTANT CONTROLLER,**
   LEGAL METROLOGY,
   KAKKANAD, ERNAKULAM.

2. **THE INSPECTOR,**
   LEGAL METROLOGY,
   PERUMBAVOOR.

BY GOVT. PLEADER, SMT. REMANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 37832 OF 2007 D

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Dated this the 19th December, 2007

J U D G M E N T

One dispensing unit in the petitioner's outlet has been suspended from use on the allegation that there is variation in the quantity delivered. Ext. P2 shows the extent of variation that was noticed at the time of inspection. Inspection was on 13-12-2007 and the petitioner submits that immediately thereafter he requested for re-stamping of the dispensing unit and Ext. P3 representation was filed. However, that has not been acted upon and hence this writ petition has been filed.

2. All that the petitioner has produced is Ext. P2. Petitioner submits that copy of the mahazar has not been given to him. In view of this, it is not possible to make out whether any tampering was noticed by the respondents at the time of inspection. If tampering has not been noticed there is no reason to delay the re-stamping of the dispensing unit. This is the view taken by this Court in several

cases and one of the judgments is in WPC No. 35792/07 which has been produced by the petitioner as Ext. P4.

Accordingly, I dispose of this writ petition directing that if tampering has not been noticed at the time of inspection of the petitioner's outlet held on 13.12.2007, the respondents shall re-stamp the dispensing unit as expeditiously as possible, at any rate within 7 days of production of a copy of this judgment. However, I clarify that this order shall not in any way preclude the respondents from taking such legal action as is permissible in law against the petitioner for the irregularity they have noticed at the time of inspection.

ANTONY DOMINIC
JUDGE

jan/-